

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Defendant.

CASE NO.: CV 08-2918 SI

**PLAINTIFF ACTUATE
CORPORATION'S MOTION TO
PERMIT WITHDRAWAL AND
SUBSTITUTION OF COUNSEL AND
[PROPOSED] ORDER GRANTING
MOTION FOR WITHDRAWAL AND
SUBSTITUTION OF COUNSEL**

1 Pursuant to Civil Local Rules 7-11 and 11-5, Plaintiff Actuate Corporation ("Actuate")
2 hereby moves the Court for an order permitting the withdrawal of its counsel of record, James A.
3 DiBoise and Brian G. Mendonca of Wilson Sonsini Goodrich & Rosati ("WSGR") and the
4 appearance of substitute counsel, Daniel J. Bergeson and Donald P. Gagliardi of Bergeson, LLP
5 ("Bergeson"), on its behalf in this action. Actuate respectfully submits that said substitution of
6 counsel is in the interests of justice.

7 Actuate, WSGR and Bergeson consent to such withdrawal and substitution of counsel.

8 Accordingly, Actuate respectfully requests that the Court enter an Order reflecting this
9 change, and that all necessary changes be made to the Court's records and ECF, and that all
10 future communications regarding this case be directed to the following:

11 DANIEL J. BERGESON, State Bar No. 105439
12 dbergeson@be-law.com
13 DONALD P. GAGLIARDI, State Bar No. 138979
14 dgagliardi@be-law.com
15 Bergeson, LLP
16 303 Almaden Blvd.
Suite 500
San Jose, CA 95110
Phone: (408) 291-6200
Fax: (408) 297-6000

17 Defendant's counsel Scott Stilman was informed of the proposed substitution by e-mail
18 on July 16, 2008.

19 This motion is not made for purposes of delay or any other improper purpose.

20 WHEREFORE, Actuate respectfully requests that this Court enter its Order permitting
21 withdrawal and substitution of counsel for Actuate, and update the Court's records and ECF
22 system for this case by removing as counsel of record James DiBoise and Brian Mendonca of
23 Wilson Sonsini Goodrich & Rosati and substituting in their place Daniel Bergeson and Donald
24 Gagliardi of Bergeson, LLP as counsel of record for Actuate.

1 Dated: July 16, 2008

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation
JAMES A. DiBOISE, State Bar No. 83296
BRIAN G. MENDONCA, State Bar No. 209728

4 By: /s/_____
5 Brian G. Mendonca
6 bmendonca@wsgr.com

7 Dated: July 16, 2008

ACTUATE CORPORATION

8 By: /s/_____
9 Thomas McKeever

10 Dated: July 16, 2008

BERGESON, LLP
DANIEL J. BERGESON, State Bar No. 105439
DONALD P. GAGLIARI, State Bar No. 138979

13 By: /s/_____
14 Daniel J. Bergeson
15 dbergeson@be-law.com

1 I, Brian G. Mendonca, am the ECF User whose identification and password are being used
2 to file **PLAINTIFF ACTUATE CORPORATION'S MOTION FOR SUBSTITUTION OF**
3 **COUNSEL AND [PROPOSED] ORDER GRANTING MOTION FOR SUBSTITUTION OF**
4 **COUNSEL.** In compliance with General Order 45.X.B, I hereby attest that Thomas McKeever
5 and Daniel Bergeson have concurred in this filing.

6 Dated July 16, 2008

7 WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

8 By: Brian G. Mendonca
9 Brian G. Mendonca

[PROPOSED] ORDER

Having reviewed and considered Plaintiff Actuate Corporation's Motion for An Order Permitting Withdrawal and Substitution of Counsel, and good cause appearing, the Court hereby orders that James DiBoise and Brian Mendonca of Wilson Sonsini Goodrich & Rosati ("WSGR") be permitted to withdraw as counsel of record for Actuate Corporation and Daniel Bergeson and Donald Gagliardi of Bergeson, LLP ("Bergeson") may appear as substitute counsel of record for Actuate Corporation. The Court's ECF system shall be updated to reflect these changes.



DATED: _____, 2008

Honorable Susan Illston
United States District Judge
Northern District of California

CERTIFICATE OF SERVICE

I, Shirley R. Frazier, declare:

I am employed in San Francisco County, State of California. I am over the age of 18 years and not a party to the within action. My business address is Wilson Sonsini Goodrich & Rosati, One Market, Spear Tower, Suite 3300, San Francisco, California 94105.

On this date, I served:

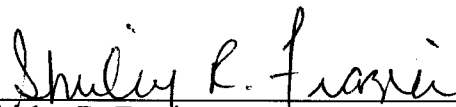
**1. PLAINTIFF ACTUATE CORPORATION'S MOTION TO PERMIT
WITHDRAWAL AND SUBSTITUTION OF COUNSEL AND
[PROPOSED] ORDER GRANTING MOTION FOR WITHDRAWAL AND
SUBSTITUTION OF COUNSEL**

☒ By placing the document(s) in a sealed envelope for collection and mailing with the United States Postal Service on this date to the following person(s):

Scott J. Stilman
Assistant General Counsel
First Vice President
Washington Mutual Bank
Legal Dept. (N110701)
9200 Oakdale Avenue
Chatsworth, CA 91311

I am readily familiar with Wilson Sonsini Goodrich & Rosati's practice for collection and processing of documents for delivery according to instructions indicated above. In the ordinary course of business, documents would be handled accordingly.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Francisco, California on July 16, 2008.


Shirley R. Frazier